

**CASE STUDY:**  
**CITY OF FULLERTON**

# CITY OF FULLERTON

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<i>Population:</i>	109,000
<i>1990/91 General Fund Revenues:</i>	\$42 million
<i>Fund Balance:</i>	\$5 million
<i># URM's:</i>	125
<i>Type of URM's:</i>	99% commercial 1% residential
<i>Ordinance Type:</i>	mandatory retrofitting
<i>Retrofit Incentives:</i>	no interest loans
<i>Funding Source:</i>	redevelopment agency

## BACKGROUND

The City of Fullerton is located in Orange County approximately 20 miles southeast of Los Angeles along the I-5 corridor and State Highway 91. Incorporated in 1904, the City of Fullerton owes its past economic growth to the acres of orange groves that could once be found around the city and the oil that was found beneath the city. Today, the city boasts more than 6,000 businesses and industries, with a total work force in excess of 71,000.

## ORDINANCE

The Fullerton city council adopted a mandatory seismic retrofit ordinance in December 1990. The ordinance is based on the Los Angeles model and has been incorporated into the Fullerton building code. The ordinance applies to all buildings constructed prior to 1934 and establishes four rating classifications: essential buildings, high-risk buildings, medium-risk buildings and low-risk buildings. The deadline for compliance under this ordinance was February 1992.

This ordinance also requires the building official to file with the county recorder a certificate stating that the subject building is within the scope of Chapter 88 - Earthquake Hazard Reduction in Existing Buildings. As a matter of policy, no such certificates were filed until a structure was in violation of the council approved deadline for compliance. This ordinance does not require

alteration of existing electrical, plumbing, mechanical or fire safety systems unless they constitute a hazard to life or property as determined by the building official.

The City of Fullerton has a separate ordinance requiring the retrofit of concrete tilt-up buildings. This ordinance, Chapter 89, applies to all buildings constructed prior to April 6, 1974 with concrete tilt-up bearing walls. This ordinance also requires the building official to file with the county recorder a certificate stating that the subject building is within the scope of Chapter 89.

### INCENTIVE PROGRAM CONCEPT

Fullerton's Seismic Rehabilitation Loan Program was approved by the redevelopment agency in May 1991. This loan program was developed to finance seismic retrofit projects using tax increment funds from the city's redevelopment areas. Fullerton has designated two redevelopment areas - the Orangefair and the Central Redevelopment Projects Areas - which cover approximately 1.5 square miles of the city. Properties eligible for funding under this program include all commercial unreinforced masonry (URM) parcels or apartment buildings with five or more units that are located in either of the city's designated redevelopment areas and were identified in Fullerton's Unreinforced Masonry Survey. (The loan program is not offered for retrofit of concrete tilt-up structures.) There is also a retroactive financing clause which allows for the reimbursement of a portion of the "soft" cost of engineering retrofitting, title and insurance costs and push tests performed before the loan program was established. The availability of these funds is limited to the seismic retrofit of brick buildings in the designated redevelopment areas. The size of the loan is based on the extent of the seismic retrofit project.

The loans offered by the redevelopment authority to URM owners performing retrofit work are two-tiered. The first \$25,000 of the amount needed is a deferred, no-interest loan due on sale or transfer of title of the structure. The redevelopment authority will then finance 50% of the remaining cost of retrofit which is repaid over a 10 year period with principal payments starting two years after the project is completed. There is no established ceiling on the amount of matching loan which will be made.

The redevelopment authority oversees this loan program. The redevelopment authority takes bank-like precautions before making a loan such as running a title check on the structure, running a credit check on the owner and establishing that the loan-to-value ratio for the structure does not exceed 70%. The redevelopment authority also requires that 3 bids be submitted for the work and that the lowest bid be accepted. (The least expensive of the retrofits have come in at about \$12/square foot but others have cost considerably more than that. ) As with most funding programs, Fullerton's system is based on reimbursement. The building owner must submit receipts for work done in order to draw down loan funds. This system allows contractors to be paid on a periodic basis.

### PROGRAM RESOURCE REQUIREMENTS

The redevelopment authority has made 6 loans, totalling \$325,000, to date and has another 6 loans, totalling \$225,000, in the approval process. The city expects the demand for such funding to greatly increase. The redevelopment authority is concerned that the amount of tax increment funds available will not be sufficient to finance all the work required and that Fullerton is in danger of running out of funds for this program in the near future. A worst case scenario is that the amount of work necessary to completely address the seismic hazard in Fullerton will total approximately \$5 million.

The seismic retrofit loan program is directly related to the general rehabilitation program of the redevelopment authority. In fact, the redevelopment authority finds itself in a difficult position regarding buildings that were given rehabilitation loans prior to the passing of the URM Law. Some of the buildings with outstanding rehabilitation loans are seismically deficient which puts the authority in a situation, similar to that in which many banks find themselves, of being first lienholder on a structure in danger of becoming rubble in the next big earthquake. The redevelopment authority has identified these buildings and aggressively marketed the seismic retrofit loan program to their owners in an attempt to obtain some additional security for the rehabilitation loans.

### PROGRAM DEVELOPMENT

After the URM Law was passed by the State Legislature, the affected departments met with the Fullerton City Manager to discuss the city's approach to compliance. It was decided to pursue a mandatory retrofit program but to put an emphasis on restoring historical structures and preserving the historical fabric of the community through the use of the redevelopment authority. Before the ordinance was adopted, the city held a number of public meetings. There was a general meeting and then a number of smaller meetings targeted at URM owners, senior citizens, property owners in the redevelopment areas, etc. After the ordinance was adopted another series of meetings took place, particularly with the Chamber of Commerce. These meetings were held in an effort to calm some of the fears about the proposed program and to emphasize that the retrofit costs would not be as high as rumored.

There was clearly a realization among the Fullerton agencies involved in the enforcement of the retrofit ordinance that cooperation among themselves would be key to the success of the program. This sense of cooperation among city departments overflowed and created a sense of cooperation with URM owners. The Building Department has developed a very cooperative working relationship with URM owners. The use of the building and its historical significance are taken into consideration when developing the scale of the project. The Building Department considers

each building on a case by case basis when determining the extent to which other life safety and fire protection upgrades must be made. The Building Department has also adopted a policy allowing property owners to establish temporary offices in trailers on the project premises which can allow tenant businesses to continue to operate during the retrofit period.

### **PROGRAM EFFECTIVENESS**

Owners of approximately 100 of the city's 125 URM's have either retrofitted their structure or submitted plans for proposed retrofitting. The owners who missed the original deadline but have since displayed some effort are being given an unofficial extension. Of the remaining buildings, owners of only 11 buildings have provided absolutely no indication that they are addressing the issue of seismic retrofitting. If the owners of these buildings have still done nothing 6 months after the deadline for compliance, their buildings will be "red-tagged" and ordered vacated.

To date 3 URM retrofits have been completed, 8 URM retrofits are under construction and 45 retrofit projects are in the plan check stage. Of the 220 tilt-up structures identified by the city, only 11 have not yet complied with the retrofit ordinance.

### **PROGRAM STRENGTHS**

Any time a city has the means to provide some financial assistance to URM owners, it must be considered a program strength. The strong local economy and the pro-redevelopment attitude of Fullerton both add to the strength and success of Fullerton's retrofit program. It appears that the City of Fullerton's ability to deal with its URM owners in a very personalized manner is also a major strength of its retrofit program.

### **KEYS TO SUCCESS**

There is a great deal of cooperation among the different departments involved in the retrofit program. Fullerton's Development Services Department and redevelopment authority have both been involved with the retrofit program since its inception and continue to work together closely on enforcement of the ordinance. The city also has a high level of professional expertise in-house, as exhibited by its ability to proceed with a tilt-up retrofit ordinance prior to the State of California legally requiring such retrofits.

EXHIBITS

- Seismic Loan Program - Loan Program Guidelines

CONTACTS

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# CITY OF FULLERTON

## EXHIBITS

SEISMIC LOAN PROGRAM

Loan Program Guidelines  
January 1992

Section

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- 12 PARTICIPANT'S FUNDS
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EXHIBITS

- ELIGIBLE PROJECT AREAS
- APPLICATION
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SECTION 1 BACKGROUND AND PURPOSE

The Redevelopment Agency approved the Seismic Rehabilitation Loan Program on May 7, 1991, for the Orangefair and Central Redevelopment Project Areas. The program was adopted to assist and encourage commercial property owners to seismically upgrade their unreinforced masonry buildings to conform to the Seismic Ordinance. Apartments with five units or more are also eligible if they are unreinforced masonry.

SECTION 2 AMOUNT OF AVAILABLE ASSISTANCEInterest-Free Commercial Loans

Up to \$25,000 <sup>(1)</sup>	100% Agency Loan, deferred, and due on sale with no interest charge.
From \$25,001 and up <sup>(1)</sup>	This amount is on a 50/50 matching basis between owner and Agency. The loan repayment schedule begins two years after building completion, to be repaid in ten annual payments, with no interest.
Churches	Churches are eligible for 25% of total project costs not to exceed \$100,000 to be fully repaid over 10 years starting two years after building completion.

SECTION 3 DEFINITIONS

Eligible Projects - All seismically deficient buildings as identified in the City of Fullerton's Unreinforced Masonry Study conducted in 1990. However, larger projects which are receiving substantial Agency assistance are not eligible for seismic loans unless specifically approved by the Agency.

Development Standards - Architectural guidelines for the downtown project area are contained in the CBD Guidelines booklet. All plans for buildings in either project area, when the seismic work has a visual impact on the building, are to be reviewed and approved by the Redevelopment Design Review Committee.

Owner Participation Agreement - All property owners must have an OPA approved by the Redevelopment Agency. This Agreement contains all of the terms and conditions applicable to the project, project scope, and the chosen bidder's cost breakdown. In addition, there are requirements for insurance, title policies, and non-discrimination clauses which must be followed.

Program - The Seismic Rehabilitation Loan Program as approved by the Redevelopment Agency on May 7, 1991.

<sup>1</sup> ADJACENT PARCELS OWNED BY THE SAME OWNER ARE NOT CONSIDERED SEPARATE LOANS. THE AGENCY LOAN IS DEFERRED ON THE FIRST \$25,000 OF PROJECT COSTS WITH 50/50 MATCH OVER \$25,000.

SECTION 4 ELIGIBLE PROPERTIES AND PROJECTSA. Eligible Properties

Properties eligible for inclusion in the Program shall include all commercial parcels or apartments of five units or more within the boundaries of the Central Redevelopment Area and the Orangefair Redevelopment Area as identified in the City of Fullerton's Unreinforced Masonry Study conducted in 1990<sup>1</sup>. Also, those owners who have already started or completed seismic work, retroactive to March 6, 1990, may be reimbursed for those expenses if the work was done in conformance with Fullerton Seismic Ordinance requirements.

B. Eligible Work

Work eligible for Agency participation shall include the following as a minimum:

Interior or exterior repair or replacement in order to mitigate any unsafe or dangerous structural conditions as identified in the City's Unreinforced Masonry Study or such subsequent repairs as required by the Building Department. Such seismic work shall be in compliance with the architect's plans as approved by the Building Department and the RDRC. Seismic work which is performed in conjunction with new construction or which is done in conjunction with demolition or removal of more than 25% of the existing exterior walls is not eligible for this program.

Specific eligible costs may include, but are not limited to, the following:

Architectural plans and structural calculations<sup>2</sup>, new concrete footings or strengthening of existing footings, floor/wall anchoring, roof diaphragm/shear transfer, diaphragm chords, interior shear walls, crack repair, tuckpointing, strengthening wall parapets or projecting sign boards and reroofing, replastering and patching or replacing stucco or brick which is damaged as a part of the seismic strengthening.

SECTION 5 SUBORDINATION

All loans shall be secured by a Deed of Trust listing the Redevelopment Agency as beneficiary and the City of Fullerton as trustee. The Agency is willing to take a position as a junior lienholder; however, if insufficient security exists to protect the Agency's interest in the property, then the loan amount may be reduced or the loan denied. Specifically, the Agency will agree to subordinate its seismic loan to construction or permanent financing or refinancing for a more favorable interest rate without requiring repayment. The Participant's request for subordination for refinancing or other reasons shall be reviewed and determined in the sole discretion of the Agency which approval shall not be unreasonably withheld. The Agency, when revising the subordination request, prefers that the total of all liens shall not exceed 70% of the total loans to the appraised fair market value of the appraisal of the property. When the

<sup>1</sup> Except Concrete Tilt-up.

<sup>2</sup> Owner can include these as project costs for reimbursement after Agency loan is funded.

SECTION 5 (continued)

estimated property value begins to approach 50% loan to value including the Agency's proposed loan, an appraisal may be required to determine the actual appraised market value of the property (see SECTION 11).

SECTION 6 APPLICATION PROCEDURES, APPLICATION REVIEW, AND APPROVAL OF LOAN

1. Applicant shall discuss the proposed project with the Redevelopment staff and Building Department in order to develop the scope of the project.
2. Applicant shall fill out a seismic application, available from the Redevelopment Office, 303 West Commonwealth Avenue, Fullerton, CA 92632.
3. Review of the application, project, and plans will include the following:
  - A. Availability of Agency funds for this and other projects.
  - B. Is the building on the Historical Building Survey or a designated Local Landmark?
  - C. Severity of seismic problem.
  - D. Has the exterior of the building been previously remodeled and does the Agency already have a Rehabilitation Loan on the property?
  - E. Has the owner already spent money to do seismic work, are plans completed, and is the owner ready to start the project?
  - F. Are the total loans, including the Agency loan, not in excess of 80% of the building's fair market appraisal?

SECTION 7 POST APPLICATION APPROVAL CHRONOLOGY AND BIDDING REQUIREMENTS

1. After the application has been accepted, the applicant and Agency staff shall meet with the owner's designer(s) regarding the conceptual plans for the project. The owner and his contractors shall use the Secretary of the Interior's Standards in designing and constructing the improvements and in the repair of any damage caused by the seismic work. Design professionals and contractors should be chosen based on their familiarity with these Standards and their verified rehabilitation experience on similar types of buildings. The Agency and Development Services prefer the Hilti fastening system and that the primary street exterior of the building shall not be penetrated with support flanges of any type. Exceptions to this rule will be reviewed by the Development Services Department.
2. Once conceptual plans are prepared, the applicant shall process the plans through all applicable City of Fullerton review procedures, including the RDRC if repairs impact the exterior of the building or historic or architectural features considered to be significant.

SECTION 7 (continued)

3. Two written bids are required to determine the cost of the project. The owner shall select the lowest responsible bidder. An applicant may build a project by using: a) a general contractor, b) a managing contractor on a fee basis, or c) by acting as an owner/builder.
  - a. If a general contractor is used, two overall bids shall be provided in sufficient item detail to allow the Agency staff to determine that a substantially similar character of work was bid by all contractors submitting proposals. The more complex projects shall require an owner to employ a General Contractor unless it can be demonstrated that the owner or his representative has sufficient time and expertise to run the project.
  - b. In the case of a managing contractor employed on a fee basis, at least two bids for each subcontracted trade used shall be required in addition to a statement of the fee to be paid to the managing contractor. The fee paid shall not exceed the then prevailing industry standard for construction management fees.
  - c. If the applicant acts as an owner/builder, a cost estimate for each item of work to be performed by the owner/builder's own forces shall be provided, itemized by labor and material. If the applicant also utilizes the services of subcontractors to complete the rehabilitation, then at least two bids must be provided for any such subcontracted work. If the Agency staff questions the cost estimate of any owner/builder items not subcontracted, then the staff may request that the owner/builder provide two comparison bids for the work in question.
4. Once plans have been approved by the Building Department and bids solicited, the Agency staff shall schedule the item for the next available Agency meeting agenda. The Owner Participation Agreement shall be executed by the applicant prior to the Agency meeting. In addition to the basic agreement (attached to these guidelines in Appendix A), the following attachments to the Owner Participation Agreement will require the applicant's signature prior to the Agency meeting and are also included in Appendix A:
  - Attachment C: Short Form Deed of Trust
  - Attachment D: Promissory Note
  - Attachment E: Contractor's General Liability Insurance, Workmen's Compensation Insurance and Owners Fire Insurance Policies
  - Attachment F: Memorandum of AgreementA Lender's Policy of Title Insurance shall be provided to protect Agency from subsequent liens or claims.
5. After Agency approval and recordation of the Deed of Trust, the applicant may apply for reimbursement of eligible expenses. Under certain extenuating circumstances, the Agency may approve agreements after commencement of construction and may approve reimbursement of prior expenditures as long as they constitute eligible rehabilitation expenses as described in Section 3.B of the guidelines.

SECTION 8 DISBURSEMENT OF LOAN FUNDS

In order to draw down loan funds, the applicant shall submit the following items to the Redevelopment Office:

1. Participant's request for progress payment.
2. Paid invoices for the amount of eligible work.
3. Labor and material lien releases for all invoices submitted.
4. Under the owner/builder option, the applicant shall be reimbursed upon presentation of paid invoices for all materials and certified payrolls for all labor charges, up to the amount of the estimate for the work as discussed in Section 7, Item 3.C. above.

Reimbursement of eligible expenses shall be 100% of the first \$25,000 of eligible costs based on invoices submitted for payment, less a 10% retention. Amounts in excess of \$25,000 shall be reimbursed at 50% of eligible costs, less a 10% retention, until the maximum amount is reached. The retention shall be released to the applicant not earlier than 30 days after a Notice of Completion has been filed with the County Recorder's office.

SECTION 9 LOAN PAYBACK

Loan payback shall be made pursuant to the terms as contained in the note. The Agency may approve deferral of payback in the event of refinancing or other reasons acceptable to the Agency.

SECTION 10 SUBSEQUENT LOANS

If the scope of an approved project is expanded after construction has begun, an increase in the loan amount for eligible activities up to the stated limits of the program may be granted at the sole discretion of the Agency.

Should loan terms and amounts allowed under the program be changed subsequent to approval and disbursement of loan funds to an applicant, the applicant may reapply for an additional loan. A new application under the revised terms will be considered provided that additional work is being proposed. Only one reapplication under the terms of this section will be considered. Costs of work previously completed shall not be included in the reapplication.

SECTION 11 APPRAISAL

For projects with an Agency Loan over 50% loan to value (including senior loans), an appraisal may be required at Agency's option. The appraisal, if required, will be reviewed by the City of Fullerton's real estate office to determine its adequacy and conformance to industry standards.

SECTION 12 PARTICIPANT'S FUNDS

Participant's funds shall be available to complete participant's portion of project and be set aside exclusively for this project.

SECTION 13 TITLE REPORT

All projects shall require a title report to verify liens, easements and other matters of record, etc. and to insure the Agency's loan. The City of Fullerton has a contract with Commonwealth Land Title Company (CLTC) for title reports and the Agency shall utilize CLTC for its seismic loan program. The applicant will be required to pay for these services directly and can be reimbursed later on from loan proceeds after the loan records.